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THE SITUATION OF DEMOCRACY AND HUMAN RIGHTS IN HAITI

Report of the Secretary-General

1. The present report is submitted in accordance with paragraph 15 of General Assembly resolution 48/27 of 10 December 1993 on the situation of democracy and human rights in Haiti. The General Assembly requested me to report to it on the following points: implementation of the resolution and efforts made to ensure the return to Haiti of the International Civilian Mission in Haiti (MICIVIH) as speedily as possible and the efforts undertaken under the auspices of my Special Representative and the Special Envoy of the Secretary-General of the Organization of American States (OAS) in order to continue the process of political dialogue aimed at resolving the political crisis in Haiti. This report, which is a follow-up to the reports contained in documents A/48/532 of 25 October 1993, A/48/534/Add.1 of 18 November 1993 and A/48/532/Add.2 of 30 November 1993 on the situation of democracy and human rights in Haiti, provides information on the human rights situation since the resumption of the activities of MICIVIH in January 1994 and on the humanitarian activities of the United Nations system in Haiti.

I. POLITICAL NEGOTIATIONS

2. With regard to the political situation, I indicated in my report to the Security Council on 13 October 1993 1/ that the incidents that had prevented the deployment of the military contingent of the United Nations Mission in Haiti (UNMIH) were, in fact, the result of developments marked by an increasingly obvious refusal by the Haitian military authorities to facilitate the start of UNMIH. Accordingly, the Council decided, in resolution 873 (1993) of 13 October 1993 to reimpose the sanctions provided for under resolution 841 (1993) as of 18 October 1993 unless the parties honoured their commitments. On 16 October, the Council, in resolution 875 (1993), called upon Member States to use measures necessary to ensure strict implementation of the provisions of resolutions 841 (1993) and 873 (1993) relating to the supply of petroleum or petroleum products or arms and related matériel of all types, including weapons

and ammunition, military vehicles and equipment, police equipment and spare parts and components. The Council called on Member States to halt inward maritime shipping in order to inspect and verify their cargoes and destinations. Since the position of the Haitian military did not change, the embargo entered into force on the date scheduled. 2/

3. A meeting of the Friends of the Secretary-General for Haiti, in which my Special Representative participated, was held in Paris on 13 and 14 December 1993 for the purpose of determining steps to be taken to bring about a negotiated solution within the framework of the Governors Island Agreement. 3/ The aide-mémoire prepared by the Four Friends of the Secretary-General for the Armed Forces of Haiti enjoins them to implement strictly the Governors Island Agreement and provides, in case of non-implementation, for a meeting of the Security Council to consider strengthening the sanctions.

4. Within the framework of the efforts to implement the Governor's Island Agreement, President Aristide convened a conference in Miami from 14 to 16 January 1994, to which all the political groups that had signed the New York Pact were invited. The seven-point resolution submitted following this work by the workshop entrusted with the task of considering the political situation reaffirmed the support of the parties present for the Governors Island Agreement and the New York Pact. 4/ The resolution recommends that, on the one hand, the political forces within the Parliament unite their efforts and, on the other hand, that the President initiate the procedure for appointing a Prime Minister responsible for forming a Government of national concord. The resolution also provides for the application of point 5 of the Governors Island Agreement, concerning the deployment of UNMIH. The text met with the approval of President Aristide.

5. In the weeks that followed, a group of Parliamentarians representing various political tendencies within both Houses established contact with the Four Friends of the Secretary-General for Haiti as well as my Special Representative and the Special Envoy of the Secretary-General of OAS. On 19 February 1994, a delegation representing these Parliamentarians addressed a letter to me informing me of the conclusions reached in their work and submitting a plan to find a way out of the impasse. I transmitted this letter to the Security Council on 20 February 1994. 5/ The plan, which was subsequently set out in detail in a letter received on 23 February 1994, provides for the appointment of a Prime Minister, the departure of the Commander-in-Chief of the Armed Forces of Haiti, a vote on the amnesty law, as well as the adoption, after the installation of the new Government, of a law concerning the establishment of a police force, and the return of President Aristide to Haiti. Under the plan, the confirmation of the Prime Minister is not to take place until after the appointment of a new Commander-in-Chief and the vote on the amnesty law. This initiative is part of a movement to revive the process begun under the Governors Island Agreement. It should be noted that the initiative includes the return of President Aristide and that it underscores moreover the intention of the Parliament to cooperate within the strict sphere of its responsibilities.

6. As I stressed in my letter to the President of the Security Council, 6/ I believe that these are significant developments since political parties of

opposing tendencies seem prepared to accept the principles of the Governors Island Agreement. The plan to break the impasse was approved by a resolution of the Chamber of Deputies put to a vote on 2 March 1994. Efforts are continuing within the Parliament to vote on an identical resolution in the Senate.

7. I received President Aristide on 5 March 1994. During the meeting, President Aristide expressed his opposition to this initiative. I informed the President that the United Nations was prepared to witness and guarantee the decision which will be taken by him, in agreement with his Prime Minister designate, on the date of his return. I reminded the President that any attempt to usurp the legitimate authority of the President elect, particularly the efforts by certain parties to try to impose the application of article 149 of the Haitian Constitution, would be unacceptable for the international community. The article in question reads as follows:

> "Should the Office of the President of the Republic become vacant for any reason, the President of the Supreme Court of the Republic, or in his absence, the Vice-President of that Court, or in his absence, the judge with the highest seniority and so on by order of seniority, shall be invested temporarily with the duties of the President of the Republic by the National Assembly duly convened by the Prime Minister. The election of a new President for a new five (5)-year term shall be held at least forty-five (45) and no more than ninety (90) days after the vacancy occurs, pursuant to the Constitution and the Electoral Law."

8. President Aristide expressed his position to me in a letter dated 7 March 1994, which I transmitted to the President of the Security Council on 10 March. Before appointing a new Prime Minister, President Aristide wishes to bring about the departure of the leaders of the coup d'état, the adoption of the laws provided for within the framework of the New York Pact and the deployment of the United Nations Mission in Haiti (UNMIH).

9. In recent months, my Special Representative and the Special Envoy of the Secretary-General of OAS has been working to maintain the political dialogue in order to reach an agreement on the modalities for re-establishing democracy, bringing about the return of President Jean-Bertrand Aristide, and implementing a stable and lasting solution in Haiti.

II. MICIVIH

10. In accordance with my report of 30 November 1993 (A/48/532/Add.2) and on the recommendation of my Special Representative and the Special Envoy of the Secretary-General of OAS, I decided, on 25 November 1993, to maintain the evacuated MICIVIH personnel in Santo Domingo until 31 December. That decision was motivated by the situation in Haiti in terms of security and logistics, on the one hand, and by the wishes of the Constitutional Government and the Member States, on the other, to redeploy the Mission as rapidly as possible, in accordance with General Assembly resolution 48/27 of 6 December 1993.

11. During the period of evacuation, a small group of administrative personnel was kept in Port-au-Prince. The Executive Director of MICIVIH returned to

Port-au-Prince after four weeks of absence. In January 1994, on the recommendation of the Executive Director, my Special Representative and the Special Envoy of the Secretary-General of OAS suggested the return to Haiti of a first group of observers. Twenty-two United Nations and OAS observers returned to Port-au-Prince on 26 January, then six others on 2 February and, finally, 10 on 13 April, bringing the number of observers to 38. The return to the capital took place without incident. The Secretary-General of OAS is currently studying the possibility of sending back to Haiti the 39 OAS observers who are still in Santo Domingo. No serious incident having been noted since the resumption of the observers' activities, security measures were relaxed, and, on 1 March 1994, the Mission moved from phase IV (maximum security) to phase III.

12. Initially, the observers concentrated their activities on Port-au-Prince. Between 31 January and 15 April, 524 persons went to the observers' premises in order to lodge a complaint. Three hundred and twenty-two of these persons were reportedly linked to political or popular organizations. From the end of January up to the end of March, the Mission received information about 111 cases of attempts on the right to life, including 58 cases of murder for the month of February alone and 53 cases of execution and suspicious death since 1 March.

13. MICIVIH noted a recrudescence of violence in Port-au-Prince and surrounding areas, where the number of murders remained at an alarming level, with the persistence of grave violations of human rights and, in particular, extrajudicial executions, suspicious deaths and enforced disappearances; it noted on many occasions that corpses had been mutilated. In certain cases of suspicious death, the Mission obtained information leading to the conclusion that the culprits were members of the Armed Forces, their auxiliaries or members of the Front révolutionnaire pour l'avancement et le progrès en Haiti (FRAPH). In other cases, testimony points to armed civilians and leaves it unclear whether it is a question of "attachés" or of armed bands acting with the complicity of the Armed Forces.

14. Very large numbers of arbitrary arrests, illegal detentions, abductions and enforced disappearances, as well as the existence of secret detention centres at Port-au-Prince and surrounding areas have been brought to the attention of MICIVIH. Of 37 cases of abduction and enforced disappearance that occurred between the end of January and the end of March, 30 concern members of popular organizations and their close relatives. These violations are currently the subject of an inquiry. Twelve of the 37 individuals concerned have reappeared, and the bodies of five have been found, confirming the fear that some abducted individuals are subsequently executed or die under torture and ill-treatment. According to the testimony gathered by the Mission, the abductors beat the victims at the time of the abduction, handcuff and blindfold them and then take them to unknown destinations that are not official places of detention. Interrogations are accompanied by beatings and ill-treatment. After several days of detention, the victims are released, in very poor physical and mental condition. MICIVIH believes that the aim of these practices is to obtain information about the members and activities of popular organizations and to terrorize the popular movement in favour of the return of President Jean-Bertrand Aristide.

15. MICIVIH is conducting an inquiry into many cases of rape brought to its knowledge, a dozen cases in the past month, some of which seem to have been committed for political motives against close relatives of political and trade-union militants. Testimony points to armed civilians who use this method as a tactic of intimidation and repression.

16. Between the end of January and the beginning of April 1994, MICIVIH issued 11 press releases on the deterioration of the human rights situation, the increase in extrajudicial executions and suspicious deaths, arbitrary arrests, the numerous cases of rape, the wave of repression in provincial areas, abductions and secret detention centres. MICIVIH has resumed its cooperation with non-governmental organizations (NGOs) in the human rights field.

17. MICIVIH has gradually made visits to almost all parts of the country, in the course of which talks have been held with the judicial, civil and military authorities. On the spot, MICIVIH has been able to collect testimony on the human rights situation. In the Departments of Nord and Nord-Est, many human rights violations were committed between October and December 1993. During that period, the members of the Armed Forces of Haiti and their auxiliaries waged an intensive campaign of repression against the supporters of President Aristide. The cases of arbitrary arrest and extrajudicial executions are currently the subject of Mission inquiries. It should be emphasized that the repression severely affected circles favourable to the return of the President and that a large number of members of grassroots organizations were forced to go into exile or hide in their homes because of that intensification. In the Department of Centre, through numerous talks with the inhabitants of the central plateau who had fled from their region, MICIVIH collected information about an identical wave of violence in that area, which had caused the internal displacement of many people.

18. In the southern region, in Cayes, the cooperation of the military authorities afforded the observers access to detention centres and resulted in the immediate release of a detainee. Following the visit, other illegally detained prisoners were released. At Jacmel, contacts were more reserved and sometimes hostile. In Nord and Nord-Est, the Mission was able to visit a dozen localities and to talk with the military authorities in a very correct manner.

19. At Hinche, in the central plateau, where an MICIVIH team went during the week of 23 March, acts of intimidation and aggression were committed, vehicles were hit and insults were launched by FRAPH demonstrators at the observers, who were forced to return to Port-au-Prince in the middle of the night. Upon their arrival at Hinche, the local authorities had indicated that they were absolutely not prepared to cooperate. These incidents were condemned by my Special Representative in a communiqué dated 25 March. On 19 April, in a Port-au-Prince police station, verbal violence and death threats were directed at two observers by attachés and a sergeant. On the same day, in a suburb, the military authorities, citing, in front of the observers, instructions received by their superiors to the effect that the Mission no longer had legal status in the country and that, consequently, they could not talk with them as members of MICIVIH. I should like, in this regard, to pay tribute to the courage and abnegation shown by the observers throughout their mission in the most difficult circumstances.

III. HUMANITARIAN ASSISTANCE

20. In March 1993, the United Nations and OAS launched an appeal for a humanitarian plan of action designed to respond to the urgent humanitarian needs of the Haitian people. The budget required for the implementation of this plan was estimated at $62.7 million, for the areas of health, nutrition, agriculture and education. Contributions received so far are still at a low level. They cover only 15 per cent of the needs, or $9.6 million. Organizations have drawn on their available country programme funds to continue their activities. In addition to the humanitarian plan of action, humanitarian assistance programmes are funded by donor countries through NGOs.

21. In the health sector, the plan provides for priority programmes for mother and child health, urgent medical-surgical needs and support for health centres. Food aid has been provided for 1.1 million people. Water and sanitation programmes benefit 1,500,000 people. Seven million dollars has been devoted to the support of basic agriculture and $3.7 million to job creation.

22. In its resolution 873 (1993) of 13 October 1993, the Security Council terminated the suspension of the embargo on petroleum and petroleum products and arms and related matériel of all kinds imposed by resolution 841 (1993). Within the strict framework of the provisions of the resolution providing for possible exemptions for essential humanitarian needs, the United Nations and OAS invited the Pan American Health Organization to assume the management of a stock of petroleum necessary for the functioning of humanitarian activities. This programme, which commenced in January 1994, is managed by a steering committee composed of representatives of the organizations of the United Nations system, donors, NGOs and members of the Government. Two hundred seventy-seven institutions were supplied from the first shipment of 215,570 gallons of diesel and 35,841 gallons of gasoline. A second shipment arrived on 22 February. This operation has not encountered major difficulties.

23. Given the deterioration of the situation in Haiti, humanitarian needs prove to be greater than the evaluation made at the time of the 1993 appeal for funds. The international community and the organizations of the United Nations system are making every effort to meet these needs. The absence of the resources needed for the provision of relief supplies and petroleum stocks remains a major difficulty for the successful implementation of the humanitarian plan of action.

IV. OBSERVATIONS

24. When discussing the evolution of political negotiations and in order to shed light on their history, three principles should be recalled: (a) the definition of the nature of the international community's commitment; (b) the idea of compromise; and (c) the action taken by the United Nations, which is contingent on the will of the participants.

25. As the situation evolved, a shift in the nature of the international community's commitment occurred, and the international community's role changed gradually from that of mediator between parties to that of sole agent responsible for finding and implementing a solution to the deadlock.

26. This new role for the international community is prejudicial. Some see it as compromising the international community's neutrality and thus weakening its ability to instil confidence and lead the parties to a vital compromise. The international community is in danger of being entrusted with too extensive a mission, behind which the parties may be tempted to find refuge, shirking their own responsibility in the negotiation process. Accordingly, one looks to the representatives of the international community for a solution that should not be inherently dependent on them.

27. The current negotiation process has three goals: the return of the President, the restoration of democracy, as called for in the Governors Island Agreement, and the establishment of a democratic base on which to build current efforts. Results can only be achieved through a compromise. That compromise, built on constructive and accepted concessions is a requirement for any negotiation process. The international community can only accomplish its mission if there is a willingness to compromise on both sides, an essential element in any negotiated solution.

28. A return to institutional stability requires, among other things, the establishment of a parliamentary coalition, formed within the legitimate Parliament which resulted from the 1990-1991 elections and ready to implement the Governors Island Agreement. In this context, I welcome reports that have reached me indicating that unified action is emerging among men who are traditionally politically opposed.

29. I note that the recent initiative of a group of Haitian Parliamentarians which was supported by the United Nations and OAS did not receive the endorsement of President Aristide. Unity among the Friends of the Secretary-General for Haiti has waned, impeding the mediation efforts deployed by my Special Representative. Sanctions, reimposed by the Security Council in October 1993 have not been effective and have not yet produced the desired result, as the existence of a significant trade in petroleum products from a bordering country seems to indicate.

30. Given that negotiations have not brought about any significant progress for the reasons stated, it seems fitting to recommend that a more specifically Haitian solution be found. For this reason, it would be preferable that the participants, with the support of the international community, should resume an effective role in this process. During this phase, the international community and especially those countries most directly concerned should restore the unified approach that has been impaired by recent deadlocks in negotiations.

31. The humanitarian situation is deteriorating in spite of the efforts of the United Nations and the NGOs. The human rights situation has grown significantly worse over the past three months, notwithstanding the arrival last January of a group of MICIVIH observers.

32. The situation today is complex and offers few prospects. In the absence of positive change, both from the Haitian side and from the international community, it is difficult to determine what additional efforts the United Nations could undertake to resolve the serious crisis prevailing in the country today. However, as long as material circumstances will allow, we must maintain

our presence through MICIVIH and ensure the continuity of humanitarian assistance to Haiti.

33. In this regard, I have attached as an annex a letter addressed to me from the President of the Republic of Haiti requesting the extension of the mandate of MICIVIH. Through its presence, the Mission, though it has been unable to rectify a distressing situation, can be credited with shedding light on certain events and denouncing abuses that without it would not be disclosed. Therefore, I am proposing to the General Assembly that it approve the President's request and authorize the extension of the mandate and financing of the United Nations component of MICIVIH for one additional year.

Notes

1/ S/26573.

2/ S/26724.

3/ S/26668.

4/ S/1994/203, appendix.

5/ S/1994/203, annex.

6/ S/1994/203.

Annex

Letter dated 21 April 1994 from the President of the Republic of Haiti addressed to the Secretary-General

The situation of democracy and human rights has seriously deteriorated in my country since the signing of the Governors Island Agreement. Recently, procedures hitherto unknown in the panoply of forms of repression in Haiti are being used by the military and their civilian auxiliaries to attempt to force the population to accept the coup d'état: the practice of ransom, the practice of rape and that of kidnapping, particularly the kidnapping of children of wanted persons.

In conformity with my letter of 8 January 1993, I am requesting a renewal of the mandate of the International Civilian Mission according to the terms of reference and modalities which were negotiated with your Special Envoy, Mr. Dante Caputo.

I hope that the deployment of the International Civilian Mission throughout the nine departments of the Republic and the strict observance of the terms of reference by the parties concerned will help to improve the human rights situation in Haiti and to create an atmosphere that is conducive to political dialogue with a view to reaching a settlement of the political crisis that my country has been facing for more than 30 months.

(Signed) Jean-Bertrand ARISTIDE